

August 10, 2005

**Karen Dinicola
Department of Ecology
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696**

Dear Karen:

RE: Comments on Proposed MS4 Stormwater General Permit

The Central Washington Home Builders Association [CWHBA] appreciates this opportunity to submit comments regarding the proposed NPDES and State Waste Discharge General Permit for Discharges from MS4s in Eastern Washington.

1. The Permit at S5.B.4.[a][ii] on page 14, starting at line 11, reads in part: "The ordinance shall require construction operators to adhere, at a minimum, to the requirements of Appendix 2, Core Element #2. . ."

The wording in Appendix 2, Core Element #2, pages 7-11, differs significantly and has different requirements than the Construction Stormwater General permit at S9.D SWPP-Narrative Comments and Requirements, pages 28-32.

The wording and requirements in the two documents should be the same to avoid confusion and conflicts between municipal staffs and developers. As now written, should conflict arise, which document would prevail?

2. The Fact Sheet at S5.B.5, on page 11, reads in part: "Ecology encourages Permittees to apply the technically-based thresholds in the manual to all development projects in their jurisdiction regardless of the land area disturbed by the project."

The CWHBA believes that Ecology's encouragement to apply the manual to all development projects in their jurisdiction regardless of the land area disturbed by a project exceeds Legislative intent and should be eliminated.

3. The Construction Stormwater General Permit is scheduled to be effective December 2005. The MS4 Stormwater General Permit for Eastern Washington is not scheduled to be issued until June 2006.

Developers and Redevelopers must comply with the Construction Stormwater Permit effective December 2005. However, MS4 Permittees have an Implementation Schedule that goes beyond June 2006.

There is a void between December 2005 and June 2006 and beyond on providing information for compliance with Appendix 2. One example is at Appendix 4- Required Implementation Schedule, page 1, which reads in part: "From the effective date of this permit: *Provide information to design professionals about training available on how to comply with the requirements of Appendix 2 and apply the BMPs described in the *Stormwater Management Manual for Eastern Washington*, or an equivalent document."

Who provides the information to the design professionals prior to June 2006. Will this be an Ecology function?

Other examples are ordinances that require erosion and sediment controls at new development and redevelopment projects and post-construction stormwater controls at new development and redevelopment projects. The Implementation Schedule allows two years from the effective date of the permit to develop and adopt the ordinances.

The CWHBA believes that Developers and Redevelopers should not be held to compliance with the Construction Permit until the MS4s have completed their Implementation Schedule on issues that impact construction.

4. The Definition of "Common plan of development or sale," page 33, raises significant tracking problems.

Many independent builders purchase individual lots smaller than one acre from a common plan of development many years after a development is approved. The requirement that stormwater rules will apply to these lots less than one acre creates an unreasonable significant administrative burden.

Will there be a requirement to record the stormwater rules on lots less than one acre that are part of a "common plan of development or sale.?"

5. If an Advisory Committee is formed in the future to evaluate BMPs, representation from the Development and Redevelopment community should be included on the committee.

6. The Preliminary Draft Fact Sheet for MS4s, at page 2, 4th paragraph, reads in part: "...the Permit only requires new development and redevelopment controls on sites that disturb more than one acre of land." This differs from the Construction Stormwater General Permit at S1.B.1 which refers to construction activities required to seek coverage "that result in the disturbance of one acre or more of total land area. . ." [underscore added for emphasis.]

Which statement prevails for Developers and Redevelopers?

Thank you for considering CWHBA's comments to the MS4 Stormwater General Permit.

Sincerely,

Clarence Barnett